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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,381	04/20/2004	David Lawrence Phillips	16599-US	4821

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,381

Applicant(s)

PHILLIPS, DAVID LAWRENCE

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-19 and 22 is/are rejected.
- 7) ☒ Claim(s) 6 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Akgulian et al. 3,731,469.

Akgulian discloses an apparatus comprising:

- A ladder-type chassis (10)
- Front wheels (12)
- A first row of two cutting units (11) mounted to pivotable arms (13) in front of the front wheels (12)
- A second row of three cutting units (11) mounted to pivotable arms (16, 44) behind the front wheels (12)
- An operator module (not shown) mounted behind the second row of cutting units (11)
- Driven and steered rear wheels (unnumbered)
- The pivotable arms (16, 44) of the second row used for raising and rotating two cutting units (11) to a full, vertical position within the widest track of the wheels (12)
- A power supply (17) mounted behind the operator module and rear wheels.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronning 1,957,079 in view of Akgulian et al. 3,613,337.

Ronning discloses an apparatus comprising:

- a chassis having left and right rails (56)
- a pair of front wheels (15)
- a pair of rear wheels (12) having a track width and diameter greater than that of the front wheels (15)
- an operator module (13)
- portions of the left and right rails (56) extending from under the operator module (13) to define an uncovered area at least 5 square feet in area between the rails (56) near the front of the chassis
- a first row of two cutting units (A, B) mounted to horizontally extending arms in front of the pair of front wheels (15)
- a second row of three cutting units (C, D, E)
- one of the cutting units (D) in the second row is positioned entirely in the uncovered area

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- the other two cutting units (C, E) in the second row mounted to horizontally extending arms, as per claims 1, 8 and 9
- wherein the cutting units (A-E) are reels rotating on horizontal axes, as per claim 2
- wherein the pair of rear wheels (12) are driven by an internal combustion engine (11), as per claims 4 and 5.

However, Ronning fails to disclose wherein the horizontally extending arms are lift arms; wherein the lift arms pivot to lift the two cutting units to a transport position inside the track width of the pair of rear wheels; and

wherein the second row of cutting units are behind the pair of front wheels, as per claim 1; and

wherein the rear wheels are steered, as per claim 7; and

wherein the cutting units are non-pivotable through a vertical axis, as per claim 10.

Akgulian '337 discloses a similar device wherein the horizontally extending arms () are lift arms;

wherein the lift arms (42) pivot to lift the two cutting units (29, 30) to a transport position inside the track width of the pair of rear wheels (14); and

wherein the second row of cutting units (29, 30) are behind the pair of front wheels (16), as per claim 1; and

wherein the rear wheels (14) are steered, as per claim 7; and

wherein the cutting units (27-30) are non-pivotable through a vertical axis, as per claim 10.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the lift arms of Akgulian on the device of Ronning in order to provide a transportation configuration.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ronning and Akgulian '337 as applied to claim 1 above, and further in view of Bednar et al. 6,336,312.

The device is disclosed as applied to claim 1 above. However, the combination fails to disclose wherein the cutting units are rotary blades rotating on generally vertical axes.

Bednar discloses a similar gang mower wherein the cutting units (34) are rotary blades rotating on generally vertical axes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rotary mowers of Bednar on the gang mower of Ronning and Akgulian in order to require less maintenance.

6. Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNutt 1,562,709 in view of Johnson 3,177,638.

7. Regarding claims 19 and 22, McNutt discloses an apparatus comprising:

a front pair of wheels and a rear pair of wheels mounted to the chassis (11), at least one pair of wheels being steerable and driven by the power supply;

the rear pair of wheels having a greater track width than the front pair of wheels; and

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a first row (34) and a second row (39) of cutting units mounted on arms (12) extending laterally from the chassis (11), the first row (34) including two cutting units less than 18 inches in front of the front pair of wheels and the second row (39) including three cutting units;

each of the cutting units (34, 39) being at least primarily uncovered by the operator module (unnumbered wheel and seat) and the power supply (unnumbered) in a mowing position, as per claim 19.

However, McNutt fails to disclose a chassis on which an operator module is mounted in front of a power supply, the chassis being partially covered by the operator module and the power supply;

the second row including three cutting units less than 18 inches behind the front pair of wheels; and

being within the track width of the rear wheels in a transportation position, as per claim 19; and

wherein the power supply is primarily behind the rear pair of wheels to drive the rear wheels, as per claim 22.

Johnson discloses a similar device an operator module mounted in front of a power supply, the chassis being partially covered by the operator module and the power supply;

wherein the second row of cutting units (C, C') is less than 18 inches behind the front pair of wheels (11);

the cutting units (C, C') being within the track width of the rear wheels (12) during transport (see the dotted lines of Figure 1), as per claim 19; and

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wherein the power supply (18) is primarily behind the rear pair of wheels (12) to drive the rear wheels (12, see column 2, line 70, column 3, line 1), as per claim 22.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the positionable cutting units of Johnson on the device of McNutt in order to provide for highway travel.

8. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian in view of Ronning 1,957,079, as cited by Applicant.

The device is disclosed as applied above. However Akgulian fails to disclose:

- Right and left rails
- A portion of the rails under the operator module and power supply
- A front portion of the rails being uncovered, as per claim 12
- A cutting unit of the second row is positioned between the uncovered portions of the rails, as per claim 14.

Ronning discloses a similar device including:

- Right and left rails (56)
- A portion of the rails under the operator module (13) and power supply (11)
- A front portion of the rails (56) being uncovered, as per claim 12
- A cutting unit (D) of the second row is positioned between the uncovered portions of the rails (56), as per claim 14.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rail structure of Ronning on the device of Akgulian in order to allow floating action of the cutting units.

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9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian in view of Worthington 1,330,293, as cited by Applicant.

The device is disclosed as applied above. However, Akgulian fails to disclose the parallel rails being farther apart at the front.

Worthington discloses a similar apparatus wherein the rails (1) are closer at the front.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rail structure of Worthington on the apparatus of Akgulian in order to unite the cutting units.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian in view of Hornung 6,684,616

The device is disclosed as applied above. However, Akgulian fails to disclose a hood having a screened air intake over the power supply.

Hornung discloses a similar device including a hood (20) over the power supply (11) having a screened air intake (24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the hood of Hornung on the device of Akgulian in order to cool the engine.

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian in view of Gerzanich 4,341,059.

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The device is disclosed as applied above. However, Akgulian fails to disclose wherein the pair of front wheels are non-driven and non-steered.

Gerzanich discloses a similar vehicle wherein the pair of front wheels are non-driven and non-steered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-powered front wheels of Gerzanich on the device of Akgulian in order to provide adequate traction force to the powered wheels.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akgulian in view of Speiser 3,410,063.

The device is disclosed as applied above. However, Akgulian fails to disclose wherein the operator module is pivotably mounted to the chassis.

Speiser discloses a similar device wherein the operator module (140) is pivotably mounted to the chassis (103).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotable operator module of Speiser on the device of Akgulian in order to comfortably accommodate deferent users.

Response to Arguments

13. Applicant's arguments with respect to claim 11 have been considered but are moot in view of the new ground(s) of rejection.

The amendments made to claim 19 fail to overcome the prior art of record as the cutting units of McNutt and Johnson line within 18 inches of the front wheels.

In regard to claim 22, the applicant is arguing more than claimed. Art that comprises a power supply, any power supply, behind the rear wheels is sufficient to read on the claim as presented.

Allowable Subject Matter

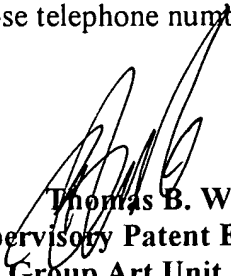
14. Claims 20 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671